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January 3, 2003

Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street S.W.  
Washington, D. C. 20554

RE: Notice of Ex Parte Comments:  
Inter Carrier Compensation – Docket CC 01-92  
Petition for Declaratory Ruling – DA 02-2436

Madam Secretary:

With regards to the specific above mentioned docket and proceeding, we submit comments stating that with regards to LEC-CMRS intra-MTA traffic, the FCC has already ruled in the matter which is consistent with the position held by the Oklahoma Rural Telephone Companies. In MO&O FCC 00-194, *TSR Wireless, LLC, et al, versus US West Communications, Inc., et al*, the RBOC LATA restrictions require intra-MTA calls that cross LATA boundaries to be routed to the IXC for termination to the wireless network, governed by intrastate access charge rules rather than reciprocal compensation. Similar restrictions apply to Oklahoma access providers for all inter-exchange traffic, whether it is within or between LATA boundaries. In such cases, the traffic is governed by access charge rules, rather than local interconnection. This is specifically noted in the above referenced proceeding in paragraph 31.

The FCC has already recognized that the RBOC has no responsibility for reciprocal compensation when the same RBOC is not the toll provider due to LATA restrictions. Such a ruling reflects the obvious distinction and restrictions between an access provider and a toll provider, with regards to the exchange of intra-MTA traffic with inter-connecting carriers. The Oklahoma Rural Telephone Companies who provide access rather than toll services are, likewise, also restricted from both providing inter-LATA toll services and intra-LATA inter-exchange toll services. In conclusion, the Commission should reject the CMRS petitioners' requests and conclude that reciprocal compensation does not apply to access providers who route calls to an IXC, for inter-exchange traffic. In accordance with FCC rules, these comments are being filed electronically.

Sincerely,

Charles C. Curtis  
Vice President – Strategic Planning

LETTER WITH EXHIBIT

## EXHIBIT

# CLARIFICATION OF INTERCONNECTION FOR OKLAHOMA ACCESS PROVIDERS<sup>1</sup>

### Regarding current petitions and ongoing proceedings of Docket CC 01-92

The independent telephone companies (ILEC's) represented in this document are state certified, eligible local exchange carriers operating in defined study areas within the state of Oklahoma. The ILEC's believe the FCC has already ruled that end users making inter-exchange calls to a wireless subscriber within an MTA, either interLATA or within LATA boundaries, can be assessed toll charges by the originating toll provider of the end user.<sup>2</sup> Once more, the ILEC's hold that as access providers, they are **not allowed** to provide toll services. Therefore, they have **no facilities** to deliver this traffic beyond its exchange boundaries. Lastly, the ILEC's believe that because of the previous positions, the ILEC does not owe terminating compensation to wireless carriers for this traffic. Because the responsible party for terminating long distance intra-MTA, intraLATA calls happens to be the end user's IXC, rather than the access provider, the IXC is responsible for delivering traffic to wireless networks as well as any applicable reciprocal compensation obligations.

### DISTINCTION BETWEEN ACCESS PROVIDER AND TOLL PROVIDER

The ILEC's are access providers, rather than toll providers, for inter-exchange originating calls.

- They provide toll dialing parity for all interconnecting IXC's offering toll services to the end user.<sup>3</sup>
- Toll services are offered to end users via chosen IXC's or by the primary toll carrier for originating calls that terminate outside the local exchange area, as defined in the Local Exchange Tariff, filed with the Oklahoma Corporation Commission.<sup>4</sup>
- Such calls are automatically routed to the selected IXC or the designated primary toll carrier.<sup>5</sup>
- The ILEC's are not allowed to offer toll services to its subscribers.<sup>6</sup>

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<sup>1</sup> The LEC's represented in this document are Atlas Telephone Company, Central Oklahoma Telephone Company, Cherokee Telephone Company, Hinton Telephone Company and Medicine Park Telephone Company.

<sup>2</sup> Memorandum Opinion and Order FCC 00-194, *TSR Wireless, LLC, et al, versus US West Communications, Inc., et al.*, pp. 18-19, ¶ 30-31.

<sup>3</sup> 47 CFR § 51.209(a)

<sup>4</sup> 47 CFR § 51.5, Terms and definitions, *Telephone exchange service* and *Telephone toll service*. The contract which contains the terms and conditions for telephone exchange service are Local Exchange Tariffs, filed and approved with the Oklahoma Corporation Commission.

<sup>5</sup> 47 CFR § 51.209(b)

<sup>6</sup> 47 CFR § 51.209(c). The ILEC's cannot offer interLATA toll services, in accordance with the same restrictions applicable to RBOC's. The ILEC's are also not allowed to offer intraLATA toll services in compliance with Oklahoma Corporation Commission Dockets 95-117 and 95-119.

The contractual relationship for toll services is between the ILEC's end user and the subscribed IXC.

- The ILEC is not allowed to offer toll service or assess toll charges to end users subscribed to an IXC, as already noted.
- The ILEC must also provide the same dialing requirements to all IXC's, regardless of where those calls terminate.<sup>7</sup>

Once the ILEC hands the call to the IXC, its responsibilities for the call have been met.

## WIRELESS INTERCONNECTIVITY

According to the Telecommunications Act of 1996 none of the obligations of Section 251 and 252 can supersede pre-existing inter-carrier compensation arrangements, unless the FCC changes those arrangements.<sup>8</sup> As a result, interstate traffic falling within an MTA is subject to interstate access charge rules, rather than reciprocal compensation rules. In addition, the FCC has also clarified the same exception for all interLATA traffic that is intra-MTA, since RBOC's are generally prohibited from crossing LATA boundaries. The ILEC's represented in this document are, likewise, not allowed to provide intra-LATA toll services and the FCC has ruled that the allowed toll service provider can charge toll to the end user for intra-MTA, intraLATA calls to wireless subscribers.<sup>9</sup>

Because the ILEC is not allowed to provide toll service to the end user, the IXC is handed the call and has the option to assess toll charges for intra-MTA intraLATA calls it carries. The Federal Communications Commission has clarified that calls that originate and terminate within the same Major Trade Area (MTA) are considered local<sup>10</sup> and the originating carrier of such intra-MTA calls must provide facilities to deliver this traffic at its own expense.<sup>11</sup> Although intra-MTA calls are guided by reciprocal compensation rules, certain intra-MTA calls can be charged toll to the originating end user, even if considered local by the allowed toll provider who delivers the call to the terminating wireless carrier.<sup>12</sup> When considering an access provider for such long distance intra-

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<sup>7</sup> 47 CFR § 51.209(a)

<sup>8</sup> Telecommunications Act of 1996, Section 251(g).

<sup>9</sup> Memorandum Opinion and Order FCC 00-194, *TSR Wireless, LLC, et al, versus US West Communications, Inc., et al.*, pp. 18-19, ¶ 30-31.

<sup>10</sup> 47 CFR § 51.701(b)(2)

<sup>11</sup> 47 CFR § 51.703(b)

<sup>12</sup> Memorandum Opinion and Order FCC 00-194, *TSR Wireless, LLC, et al, versus US West Communications, Inc., et al.*, pp. 19, ¶ 31. The commission states that some MTA calls can traverse multiple LATA and state boundaries. Such calls can be considered telephone toll services to the end user, even though the originating network provider and the terminating network provider consider it local. In this particular case of a call originating from a USWest subscriber in Yuma, AZ, terminating to Flagstaff, AZ, the commission declared that, "nothing prevents USWest from charging its end users for toll calls completed over the Yuma-Flagstaff T-1." The commission further states, "Pursuant to Section 51.703(b), a LEC may not charge CMRS providers for facilities used to deliver LEC-originated traffic that originates and terminates within the same MTA, as this constitutes local traffic under our rules. Such traffic falls

MTA calls, the toll service provider is the end user's selected IXC, rather than the ILEC access provider. As such, the IXC is responsible for terminating the call and assessing appropriate charges to its end user.

The Federal Communication Commission has already clarified that intra-MTA calls may be considered toll by the originating carrier, incurring toll charges to the end user. The same originating carrier is also responsible for delivering the traffic to the terminating carrier, since the originating carrier is, in the FCC's order, "*capable of transmitting a telephone call to any end user, and is responsible for paying the cost of delivering the call to the network of the co-carrier [emphasis added]*" who will then terminate the call."<sup>13</sup> The ILEC access provider does not have such capabilities since they are not allowed to provide toll services for these calls. Once more, the IXC delivers the call at its own expense since, "the cost of the facilities used to deliver this traffic is the originating carrier's responsibility, *because these facilities are part of the originating carrier's network [emphasis added]*."<sup>14</sup> The ILEC's network ends at the meet point in which these calls are carried by the IXC's network for delivery through means of leased facilities, owned facilities or a combination of both. Therefore, the ILEC access provider is not allowed to provide toll services and cannot deliver such calls to the terminating carrier because their network ends at the meet point and therefore is incapable of delivering the call.<sup>15</sup> As a result, the ILEC's have no originating inter-exchange, intra-MTA traffic terminating to wireless subscribers. All inter-exchange calls that terminate within the same MTA and the same LATA belong to the end user's IXC, not the ILEC, and may be assessed toll charges by the IXC. The responsibility to deliver these calls to the terminating wireless carrier resides with the IXC, not the ILEC. In the instances where the FCC refers to the incumbent LEC as the originating carrier for intra-MTA calls, we believe they assume the incumbent LEC is the allowed toll carrier for the originating end user, permitting the LEC to assess toll charges to the end user. In the case of an access provider, these assumptions are invalid.

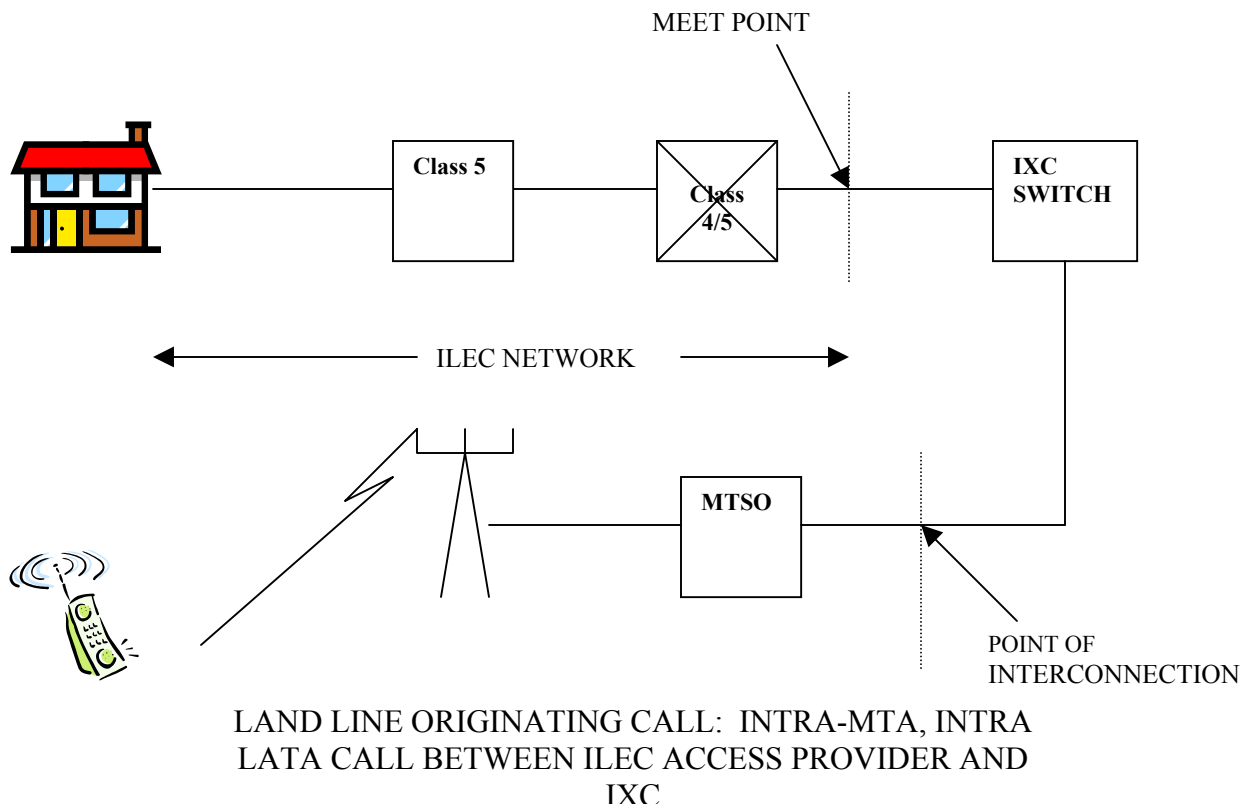
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under reciprocal compensation rules if carried by the incumbent LEC, and under access charge rules if carried by an interexchange carrier (emphasis added)."

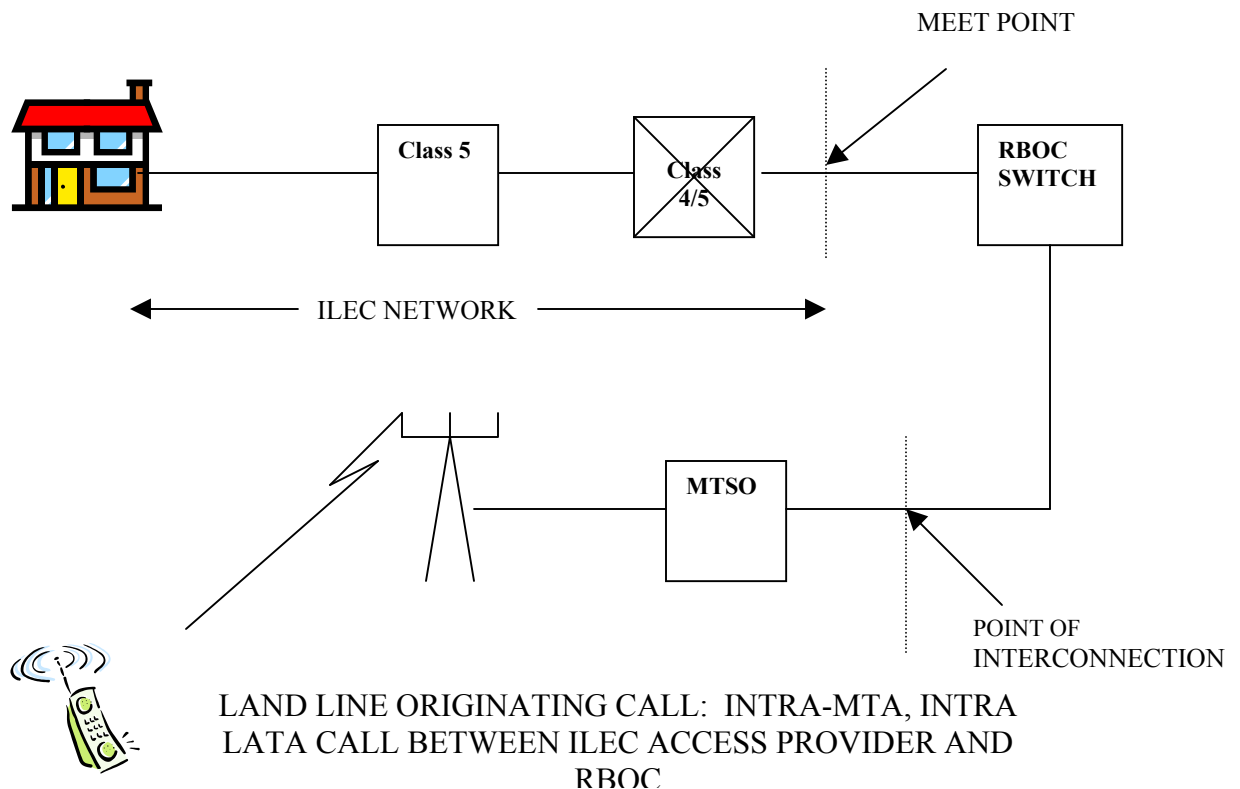
<sup>13</sup> Memorandum Opinion and Order FCC 00-194, *TSR Wireless, LLC, et al, versus US West Communications, Inc., et al.*, pp. 21, ¶ 34.

<sup>14</sup> *Id.*

<sup>15</sup> The ILEC could become an allowed toll provider only by means of obtaining such authority through a separate entity or participation through an allowed separate entity. In such cases, the separate entity would obtain carrier identification codes, operating company numbers, etc., and participate with all other IXC's on the same equal access subscription structure. In such a case, the allowed entity offering toll services would fall under the Section 251 and 252 obligations for interconnectivity and reciprocal compensation. However, the ILEC itself is not allowed to offer toll services outside of those circumstances.



1. Inter-exchange toll call made by end user picked to IXC represented in the illustration.
2. End user originates the call and ILEC routes call to IXC facilities.
3. IXC delivers call to the CMRS network at point of interconnection. IXC delivers call over either leased facilities, owned facilities or a combination of both.
4. CMRS provider switches the call and terminates to wireless subscriber.
5. ILEC bills originating access to the IXC.
6. IXC bills toll charges to the originating end user.
7. All costs between the ILEC end user and the CMRS point of interconnect born by the IXC.



1. Inter-exchange toll call made by end user with RBOC as primary LATA toll provider, represented in the illustration.
2. End user originates the call and ILEC routes call to RBOC facilities, as designated toll provider.
3. RBOC, as end user's primary LATA toll provider, delivers call to the CMRS network at point of interconnection. RBOC delivers call over either leased facilities, owned facilities or a combination of both.
4. CMRS provider switches the call and terminates to wireless subscriber.
5. ILEC bills originating access to the IXC.
6. RBOC bills toll charges to the originating end user.
7. All costs between the ILEC end user and the CMRS point of interconnect born by the RBOC as the toll provider for the call.